

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

-

WRIT PETITION NO : 25899 of 2002

Between:

K.V.Krishna Murthy, s/o.Venkateswara Rao,

R/o.54-14-7/1A, Bharathinagar, Vijayawada-8.

..... PETITIONER

AND

1)The District Level Committee, Vijayawada, Krishna

district, rep. by its Chair Person.

2)The District Panchayat Officer-cum-Member Convener,

District Level Committee for Sand Auctions,

Machilipatnam, Krishna District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction in the nature of mandamus declaring the impugned order passed by the second respondent in Rc.No.2814/2002 P.1, dated 12.12.2002 as arbitrary, illegal, unjust, violative of principles of natural justice and contrary to the A.P.Minor Mineral Concession Rules,1966 as amended in G.O.Ms.No.1, Industries and Commerce (MI) Department, dated 1.1.2001 apart from being violative of the Fundamental Right guaranteed to the petitioner under Article 19 of the Constitution of India and the Constitutional Rights guaranteed under Article 300-A of the Constitution of India and consequently direct the respondents not to take any further steps pursuant to the order made in Rc.No.2814/2002 P.1, dated

12.12.2002.

For the Petitioner: MR.C.V.MOHAN REDDY, Advocate.

For the Respondents: ADVOCATE GENERAL

The Court made the following:

ORDER :

The petitioner is questioning the act of the second respondent in issuing proceedings dated 12.12.2002. By the said proceedings, the petitioner, who was then lease holder of sand reach at Vijayawada-II, was directed to pay a sum of Rs.20,000/- within a period of three days towards penalty for two lorries alleged to have been found illegally loading sand available within 1 KM from Kanadurgamma Varadhi.

Primary ground to challenge the said proceedings is violation of principles of natural justice. The second respondent filed counter and contested the petition. But, it is not in dispute that before issuing the said proceedings, no show-cause notice was issued to the petitioner. Therefore, the alleged acts of penalty imposed upon the petitioner were all actions which are punitive in nature, including imposing of fine. Principles of natural justice have to be read in the relevant rules. As such, it was necessary for the second respondent atleast to have called for the explanation of the petitioner and duly considered the same before passing the impugned order.

The Writ Petition is accordingly allowed. The impugned proceedings dated 12.12.2002 is set aside with liberty reserved to the respondents to pass fresh orders, if it is still necessary to do so, after following the principles of natural justice.

08.07.2004

Copy to:

- 1)The Chair Person, District Level Committee, Vijayawada, Krishna dist.
- 2)The District Panchayat Officer-cum-Member Convener, District Level Committee for Sand Auction, Machilipatnam, Krishna dist.
- 3) Two CCs to the Advocate General, High Court Buildings, High Court of A.P., Hyderabad (o.u.t.)
- 4) Two CD copies.

DRK/TVR